

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Community Affairs Committee

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BILL: SJR 138

INTRODUCER: Senators Haridopolos and Lynn

SUBJECT: Homestead Property/Just Value

DATE: December 15, 2005      REVISED: 01/10/05

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	<b>Favorable</b>
2.			GE	
3.			WM	
4.			RC	
5.				
6.				

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## I. Summary:

Senate Joint Resolution 138 proposes to amend Art. VII, s. 4 of the Florida Constitution, to provide for assessing at less than just value property purchased within 1 year after a sale of homestead property and established as new homestead property, with certain limitations. This provision would essentially allow for “portability” of the “Save Our Homes” assessment limitation.

This joint resolution, upon approval of the electorate, amends subsection 4(c)(3-4) and creates subsection 4(c)(8) of Article VII of the Florida Constitution.

## II. Present Situation:

**Property Taxation in Florida** – The ad valorem tax or “property tax” is an annual tax levied by local governments based on the value of real and tangible personal property as of January 1 of each year. The taxable value of real and tangible personal property is the fair market value of the property adjusted for any exclusions, differentials or exemptions. Tax bills are mailed in November or each year based on the previous January 1<sup>st</sup> valuation and payment is due by the following March 31.

Ad valorem tax continues to be a major source of revenue for local governments in Florida. In FY 2002-03 (the last year for which certain fiscal information is available) property taxes constituted 31 percent of county governmental revenue (\$6.3 billion)<sup>1</sup>, and 17 percent of municipal governmental revenue (\$2.5 billion), making it the largest single source of tax or

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<sup>1</sup> Information provided by the Legislative Committee on Governmental Relations (LCIR), from the LCIR database at <http://fcn.state.fl.us/lcir/cntyfiscal/corevprofsw.xls>.

general revenue for general purpose governments in Florida. In addition, the property tax is the primary local revenue source for school districts. In FY 2003-04, school districts levied \$8.4 billion in property taxes for K-12 education.<sup>2</sup>

The following chart depicts all ad valorem taxes levied for counties, cities, special districts, including operating and debt service taxes.

**Ad Valorem Taxes Levied  
(Millions of Dollars)**

<b>Fiscal Year</b>	<b>Total Taxes Levied</b>	<b>Percentage Change</b>
2004-05	\$22,405.2	10.1
2003-04	20,356.4	11.9
2002-03	18,186.3	8.7
2001-02	16,724.6	9.4
2000-01	15,293.7	7.0
1999-00	14,293.8	4.1
1998-99	13,731.3	6.6
1997-98	12,885.2	4.8
1996-97	12,294.5	5.2
1995-96	11,691.3	4.0
1994-95	11,238.9	5.7

Source: 2005 Florida Tax Handbook

The property tax is important not only because of the revenue it generates, but because it is the only taxing authority not preempted by the Florida Constitution to the state.<sup>3</sup> However, the property tax is not an unlimited source of revenue. The Florida Constitution caps the millage rates assessed against the value of the property.<sup>4</sup> In addition, the Florida Constitution grants

<sup>2</sup> See 2005 Florida Tax Handbook, p. 135.

<sup>3</sup> See Art. VII, s. 1, Fla. Const.

<sup>4</sup> See Art. VII, s. 9, Fla. Const. For counties, municipalities, and school districts, the cap is 10 mills. The millage rate for water management districts is capped at 1 mill, except that it is 0.05 mills for the Northwest Florida Water Management District. The millage rate for other special districts is as established by law. A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

property tax relief in the form of valuation differentials,<sup>5</sup> assessment limitations,<sup>6</sup> and exemptions,<sup>7</sup> including homestead exemptions.<sup>8</sup>

In addition, the courts have ruled that property of the federal government, the state, and the counties is immune from, or not subject to, taxation.<sup>9</sup> The courts have further ruled that this immunity extends to property of school districts<sup>10</sup> and certain special districts.<sup>11</sup>

In tax year 2004, the combination of these various forms of property tax relief effectively reduced the taxable value of property in this state by 28 percent.<sup>12</sup> For FY 2005-06, it is estimated that at an aggregate average millage rate of 20.09, the tax revenue loss due to these forms of property tax relief will be \$823 million for agricultural and other valuation differentials,

<sup>5</sup> Article VII, s. 4 of the Florida Constitution, authorizes valuation differentials, which are based on character or use of property, such as agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes. This section also provides that tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities are authorized to assess historical property based solely on the basis of its character or use.

<sup>6</sup> Article VII, s. 4(c) of the Florida Constitution, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation. The statutes also provide for differential treatment of specific property, to include pollution control devices (s. 193.621, F.S.) and building renovations for the physically handicapped (s. 193.623, F.S.).

<sup>7</sup> Article VII, s. 3 of the Florida Constitution, provides authority for the following property tax exemptions:

- All property owned by a municipality and used exclusively by it for municipal or public purposes;
- Portions of property use predominantly for educational, literary, scientific, religious or charitable purposes, as provided in general law;
- Household goods and personal effects, not less than one thousand dollars;
- Property owned by a widow or widower or person who is blind or totally and permanently disabled, not less than five hundred dollars, as provided in general law;
- Property used for community and economic development, by local option and as defined by general law;
- Certain renewable energy source devices and real property on which the device is installed and operated; and
- Historic properties, by local option and as defined by general law.

The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

<sup>8</sup> Article VII, s. 6(a-d) of the Florida Constitution, provides for a \$25,000 homestead exemption. Article VII, s. 6(e) of the Florida Constitution authorizes the Legislature to provide renters who are permanent residents ad valorem tax relief on all ad valorem tax levies. This \$25,000 exemption is implemented in ss. 196.1975(9)(a) and 196.1977, F.S., for certain units in non-profit homes for the aged and certain proprietary continuing care facilities. Article VII, s. 6(f) of the Florida Constitution, authorizes the Legislature to allow counties or municipalities, by ordinance, for the purpose of their respective tax levies, to grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who are 65 years of age whose household income, as defined by general law, does not exceed \$20,000, adjusted for inflation.

<sup>9</sup> See *Park-N-Shop, Inc. v. Sparkman*, 99 So. 2d 571 (Fla. 1957); *Orlando Utils. Comm'n v. Milligan*, 229 So. 2d 262 (Fla. 4th DCA 1969); and *Dickinson v. City of Tallahassee*, 325 So. 2d 1 (Fla. 1975).

<sup>10</sup> See *Dickinson v. City of Tallahassee*, 325 So. 2d 1 (Fla. 1975).

<sup>11</sup> See *Sarasota-Manatee Airport Auth. v. Mikos*, 605 So. 2d 132 (Fla. 2d DCA 1992). Cf. *Canaveral Port Auth. v. Department of Revenue*, 690 So. 2d 1226 (Fla. 1996).

<sup>12</sup> Out of \$ 1,581 billion in just (or market) value, \$465 billion was not taxed. See LCIR database at <http://fcn.state.fl.us/lcir/dataAto?Z.html>.

\$4.5 billion for the “Save Our Homes” assessment limitation, and \$2.1 billion for the \$25,000 homestead exemption.<sup>13</sup>

Any additional reduction in the property tax base will result in a corresponding shift in property tax burden to other property tax owners.<sup>14</sup>

**“Save Our Homes” Assessment Limitation** - Article VII, s. 4 of the Florida Constitution, requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value.<sup>15</sup> However, section 4 also provides exceptions to this requirement, in the form of valuation differentials and assessment limitations. The most significant of which is the “Save Our Homes” assessment limitation. The annual increase in homestead property values is limited to 3 percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value. If there is a change in ownership, the property is to be assessed at its just value on the following January 1. Section 193.155, F.S., implements this assessment limitation.

The “Save Our Homes” assessment limitation has benefited Florida homestead property owners in the form of reduced ad valorem taxes. However, the assessment limitation has had an unforeseen consequence. Rapidly escalating property values in many Florida communities have resulted in an environment where homeowners may be reluctant to sell their property and purchase new homes due to the often substantial increase in property taxes. Several bills were filed during the 2005 Regular Session to address this concern. In general, these legislative proposals attached the tax benefits to the owners, rather than the property, and allowed the homeowners to retain their reduction in tax assessments when they move to a new home in the state.

### III. Effect of Proposed Changes:

This joint resolution would amend Art. VII, s. 4, of the Florida Constitution, to provide for “portability” of the “Save Our Homes” assessment limitation. Homestead property purchased within one year after a sale of previously qualified homestead property will be initially assessed at less than just value, as provided by law. The difference between the new homestead property's just value and its assessed value in the first year the homestead is established may not exceed the difference between the previous homestead's just value and its assessed value in the year of sale. In addition, the assessed value of the new homestead must equal or exceed the assessed value of the previous homestead.

Subsequent assessments will be subject to the provisions in Art. VII, s. 4 of the Florida Constitution, which includes the “Save Our Homes” assessment limitation.

The joint resolution provides ballot language and specifies that the amendment shall be submitted to the electors of Florida for approval or rejection at the general election in November 2006.

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<sup>13</sup> See 2005 Florida Tax Handbook, p. 139-40.

<sup>14</sup> Generally, local governments respond to reductions in the property tax base in one of three ways: decrease their budgets, replace the lost revenue with other sources of revenue, or increase the millage rate on the remaining taxable property.

<sup>15</sup> See *Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965).

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

Article XI, s. 1 of the Florida Constitution, provides the Legislature the authority to propose amendments to the constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's Office or may be placed at a special election held for that purpose.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

The Revenue Estimating Conference has not met to consider this joint resolution. However, SJR 138 is identical to SJR 894 which was considered during the 2005 Regular Session.

With regard to SJR 894, the Conference determined that adoption of the amendment would cause property tax revenue to be reduced by \$338.7 million in FY 2008/09, \$854.6 million in FY 2009-10, \$1.6 billion in FY 2010-11, \$2.7 billion in FY 2011-12, and \$4.3 billion in FY 2012-13. The revenue loss would continue to grow thereafter.<sup>16</sup> The revenue impact would not be spread evenly among districts, but would be felt more heavily in fast-growing districts as people move there from other Florida locations.

The Conference noted that if local governments raised millage rates to make up for the lost revenue, these millage increases would shift the property tax burden to non-homesteaded property, such as rental and commercial property. Taxes on new Florida residents would also be higher than on residents who have been in the state a longer time, magnifying existing "Save Our Homes" tax differentials and possibly discouraging immigration. However, if this new "portability" authority results in increased home purchases, it will generate additional documentary stamp tax revenue for the state.

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<sup>16</sup> The Revenue Estimating Conference impacts assumed that millage rates remain constant.

**B. Private Sector Impact:**

If approved by the electorate, this provision would allow homestead owners to transfer the benefit accrued under the “Save Our Homes” assessment limitation to their newly purchased homestead property, with certain limitations. In order to gain the full benefit provided by this amendment, the homeowner must purchase a new homestead with a just value at least as great as the just value of his or her previous homestead. This can be shown by the following examples:

	Previous Homestead	New Homestead A	New Homestead B	New Homestead C
Just Value	\$400,000	\$200,000	\$300,000	\$400,000
Assessed Value	\$200,000	\$200,000	\$200,000	\$200,000
SOH Savings	\$200,000	0	\$100,000	\$200,000

**C. Government Sector Impact:**

The Division of Elections estimates that the cost to advertise the proposed constitutional amendment twice in a newspaper of general circulation in each county prior to the 2006 general election is approximately \$50,000.

Property Appraisers will be required to re-program their respective systems to accommodate the changes in this joint resolution.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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